

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KEVIN ERIC SCOTT,

Petitioner,

MEMORANDUM and ORDER

-against-

09-CV-2639 (SLT)

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, EXECUTIVE
OFFICE OF IMMIGRATION REVIEW,

Respondent.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUN 26 2009 *[Handwritten signature]*

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TOWNES, United States District Judge:

P.M. *[Signature]*
TIME A.M. *[Signature]*

Petitioner *pro se* Kevin Eric Scott, currently detained at the Hudson County Correctional Center, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking “to challenge the legality of Respondent’s deportation order” of August 24, 2005. Petition for Writ of Habeas Corpus at 1.¹ This deportation order has already been the subject of various federal court actions, the most recent of which was dismissed by Judge Vitaliano on May 26, 2009. *Scott v. Napolitano*, No. 08-CV-2338 (ENV), 2009 WL 1457730 (E.D.N.Y. May 26, 2009).

As Judge Vitaliano explained in his thorough and well-reasoned opinion in *Scott*, and contrary to petitioner’s argument, the REAL ID Act, 8 U.S.C. § 1252, strips this Court of jurisdiction over this petition. Under that statute, “district courts may no longer review removal orders via habeas corpus.” *De Ping Wang v. Dep’t of Homeland Security*, 484 F.3d 615, 616 (2d Cir. 2007). Transfer to the United States Court of Appeals for the Second Circuit is not available pursuant to 28 U.S.C. § 1631 as this petition was not timely filed. *Id.* Moreover, even if this Court had jurisdiction to decide the instant petition, this action would be barred by res judicata for the reasons set forth in *Scott*, 2009 WL 1457730, at *6.

¹Along with this petition, plaintiff filed a motion for an emergency stay of deportation. That motion was denied in an order issued by Judge Cogan on June 22, 2009. See *Scott v. United States Dep’t of Homeland Security*, No. 09-CV-2639 (SLT), slip op. (E.D.N.Y. June 22, 2009).

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For the reasons set forth above, the instant petition for a writ of habeas corpus is dismissed. The Court certifies pursuant to 28 U.S.C. § 1915(a) that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* is denied for the purpose of any appeal.

SO ORDERED.

/ *SANDRA L. TOWNES* *es*
United States District Judge

Dated: Brooklyn, New York
June 25, 2009